

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LAUREN B.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 13 C 7674
)	
BAXTER INTERNATIONAL INC. AND)	
SUBSIDIARIES WELFARE BENEFIT PLAN)	
FOR ACTIVE EMPLOYEES,)	
)	
Defendant.)	

MEMORANDUM ORDER

Defendant Baxter International Inc. and Subsidiaries Welfare Benefit Plan for Active Employees ("Plan") has contemporaneously filed two documents in this ERISA-based action:

1. its Answer and Affirmative Defense ("AD") to the First Amended Complaint ("FAC") brought against it by Lauren B. and
2. its notice of the proposed February 25 presentment of its Motion To Amend Case Caption.

This sua sponte memorandum order has been occasioned by the AD that the Plan has included in that first document.

What that AD asserts is that the FAC should be dismissed because of Lauren B.'s failure to have exhausted her Plan claim and appeal procedures (Blue Cross Blue Shield of Illinois ["Blue Cross"] administers the Plan), and that Blue Cross' rejection of the claim that forms the gravamen of the FAC has not yet been fully appealed in accordance with those procedures. Because that contention is a threshold issue, this memorandum order directs the litigants to be

prepared to discuss, at the February 25 presentment date, the procedure (including timing) to be established for dealing with that subject up front.

Milton I. Shadur _____
Milton I. Shadur
Senior United States District Judge

Date: February 18, 2014